

MINUTES of the meeting of the STRATEGIC PLACEMAKING SCRUTINY SUB-COMMITTEE held on THURSDAY 23 AUGUST 2018 at 6.30 pm

**Present:** Councillors Bint (Chair), Ferrans, Marklew, Minns and Morla (Substituted by Gilbert).

**Officers:** T Darke (Service Director, Growth, Economy and Culture), P Cummins (Head of Legal Services and Deputy Monitoring Officer), S Evans (Infrastructure Policy and Programme Manager), N Roy (Principal Solicitor) and S Muir (Committee Manager).

**Apologies:** Councillor Dransfield.

**Also Present:** Councillor Legg (Cabinet member for Customer Services) and Councillors D Hopkins, McDonald and Morla and 9 members of the public

#### **SPSSC 01 DISCLOSURES OF INTEREST**

Councillor Bint asked that in respect of both items, it be noted that he was a member of the Council's Development Control Committee.

Councillor Bint also asked that it be noted that in respect of item 6 on the agenda (Call-in of the 31 July 2018 Delegated Decision the Adoption of the Daubeney Gate, Shenley Church End Development Brief), he was appointed to the board of the Milton Keynes Development partnership (MKDP) by the Council and whilst acting in that capacity he did so with the interest of the MKDP, however when a member of the Strategic Placemaking Scrutiny Committee Sub Committee, he judged the items on their merits and acted impartially.

Councillor Ferrans asked that it be noted that in respect of item 6 on the agenda (Call-in of the 31 July 2018 Delegated Decision the Adoption of the Daubeney Gate, Shenley Church End Development Brief), she was appointed to the board of the MKDP by the Council and whilst acting in that capacity she did so with the interest of the MKDP, however when a member of the Strategic Placemaking Scrutiny Committee Sub Committee, she judged the items on their merits and acted impartially.

Councillor Marklew asked that it be noted that in respect of item 6 on the agenda (Call-in of the 31 July 2018 Delegated Decision the Adoption of the Daubeney Gate, Shenley Church End Development Brief) she was the Ward member for Stony Stratford where Whitehouse School indicated in the papers, was located.

Councillor Gilbert asked that be noted that in respect of item 6 on the agenda (Call-in of the 31 July 2018 Delegated Decision the Adoption of the Daubeney Gate, Shenley Church End Development Brief) he was the Ward member for Loughton where the Daubeney Gate site was located.

Councillor Legg asked that in respect of both items, it be noted that he was a member of the Council's Development Control Committee.

**SPSSC02**

**CALL-IN OF 31 JULY 2018 DELEGATED DECISION - CALL IN OF THE ADOPTION OF THE PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT DELEGATED DECISION TAKEN ON 31 JULY 2018, BY CMK TOWN COUNCIL**

The Sub Committee noted the decision made by Councillor Legg on 31 July 2018:

- “(a) That the new Planning Obligations Supplementary Planning Document be rescinded from 1 September 2018;
- (b) That the Supplementary Planning Document be revisited in terms of the policy requirements in the emerging Plan:MK, and the impact on delivery of strategic sites in the Plan;
- (c) That proposals to amend the Supplementary Planning Document be fully consulted upon following a delegated decision by the Cabinet member, and any decision to adopt an amended Supplementary Planning Document be referred to the Cabinet. Production of this amended document would be managed so that it was capable of being adopted upon adoption of Plan:MK (anticipated February 2019); and
- (d) That any decisions above be informed by consideration of the Council's position regarding Community Infrastructure Levy (CIL).

The Sub-Committee noted that this decision had been called in by CMK Town Council for the following reasons:

- “1. The decision potentially leaves a policy vacuum - it is unclear which planning policy document(s) will be used to guide s106 contributions in CMK/Campbell Park if the recently adopted 2018 Planning Obligations SPD is rescinded.
- 2. If the intention is for the 2005 CMK Planning Obligations SPG to be re-instated, the decision may be unsound - it is relying on a 13-year-old planning document to be in better conformity with recent NPPF and PPG policies than the SPD adopted just 3 months ago.
- 3. The papers accompanying the recommendation says that some developers/landowners say they were not informed about the consultation on the new SPD and there's a risk of legal action. The Town Council notes that 17 representations were submitted during the consultation, including 5 by

developers/landowners or their agents, and it would set a dangerous precedent to now rescind the SPD on the basis that the consultation was allegedly inadequate or unlawful.

4. The 2005 SPG puts CMK/Campbell Park communities at a significant disadvantage relative to the rest of the Borough in terms of the social infrastructure that is needed, and the decision does not address how this inequity will be mitigated until a new SPD is brought forward. Note: to put this into perspective, the community facilities contribution for a 2-bed dwelling in the new SPD is £3,420, which is essentially what all areas outside the city centre currently receive (slightly uplifted for inflation). However, the current contribution in CMK/Campbell Park is just £612. This is 5-times lower than what all other areas in MK receive, and have been receiving since 2005, to support delivery of community facilities for their communities.
5. At a time when a substantial amount of residential development is rapidly coming forward in CMK/Campbell Park, the decision-maker cannot guarantee that Plan:MK will be adopted by February 2019 or that a new SPD will be in place before thousands of new dwellings are approved or subject to pre-app negotiations or masterplans based on outdated or non-existent guidelines. Note: work began in 2010 to replace the 2005 SPG, but was never completed. For many years, the Town Council has requested that MKC update the old SPG, and a policy in the CMK Alliance Neighbourhood Plan (adopted in 2015) specifically raises the planning obligations issue, and it still took 3 years for MKC to bring forward the recently adopted SPD.
6. The decision reflects the preferred option recommended by officers but options were not discussed beforehand with CMK Town Council although our parish is the only one severely impacted by the recommendation. Given the projected 5,000 new flats to be built in CMK/Campbell Park over the coming years, the need for social infrastructure is urgent, particularly as flats have more limited lounge and garden space than other dwelling types for social gatherings and other community activities. We believe a better option could have been developed in consultation with ourselves.”

The Committee heard that at the mediation meeting held between Councillor Legg and representatives CMK Town Council requesting that the decision be reviewed, no agreement had been reached.

The Committee heard from representatives called by CMK Town Council who had presented the call-in, who indicated that in addition to the call in reasons provided above, the following issues should be taken into account:

- (a) The consultation for the 31 July 2018 Delegated Decision had not followed the 6-12 week consultation procedure indicated in the Council's Parishes Protocol;
- (b) CMK Town Council could potentially lose much needed infrastructure due to the reversal in funding arrangements;
- (c) CMK Town Council had offered a solution by seeking to negotiate and seek compromise with any challenge by Developers about planning gain (S106) contributions; and
- (d) CMK Town Council had indicated at the Mediation Meeting that the consultation that was now deemed as flawed as part of the March 2018 Cabinet Decision should be redone to include all the stakeholders that had been not consulted and an interim decision taken, as this would be quicker than the work timeline indicated in a new document that was scheduled to be considered by the Cabinet on 4 September 2018.

The Head of Legal Services and Deputy Monitoring Officer clarified that the consultation period for Delegated Decisions was a statutory period and therefore took precedence over the Parishes Protocol timeframes. He also indicated that the correct procedure had been followed for the 31 July 2018 Delegated Decision.

The Committee received a response from Councillor Legg (the responsible Cabinet Member) who indicated that:

- (a) Plan:MK which was currently being reviewed by the Planning Inspector, had progressed more quickly than expected and it was anticipated that this would be adopted ahead of schedule;
- (b) The Cabinet meeting on 6 March 2018 agreed to review the Community Infrastructure Levy and a report had been commissioned to this effect that would include any new guidance or legislation. In the meantime, officer colleagues would seek an informal process with immediate effect to include CMK Town Council in particular, and other Town and Parish Councils, in the negotiations for S106 contributions;
- (c) The feedback from key developers on the Planning Obligations Supplementary Planning Document as it neared adoption (from 1 September) was that it made some sites in Central Milton Keynes unviable which would affect the Council's Housing Delivery targets and the development strategy in Plan:MK;
- (d) This feedback revealed that the consultation exercise carried out on the 6 March 2018 Cabinet draft Supplementary Planning Document was flawed. A large number of statutory consultees had not been contacted and therefore the Planning Document was open to Judicial Review challenge

by Developers. Consequently a Delegated Decision was taken on 31 July to rescind the 6 March Cabinet Decision;

- (e) A report was scheduled for consideration at the 4 September 2018 Cabinet meeting which set out a programme of work to produce and adopt a new Planning Obligations Supplementary Planning Document which realistically would take up to 12 months to complete but there may be opportunities to shorten this time frame when Plan:MK is agreed;
- (f) Consideration had been given to the request at the Mediation Committee to carry out another consultation exercise for the March 2018 Planning Document in parallel to the consultation being carried out for the new Planning Obligations Planning Document. However, following investigation, this would not be completed until about the same time as the new piece of work. Unless additional resources were obtained to carry out both pieces of work simultaneously, there were serious risks that both pieces would be delayed; and
- (g) The new Policy would also include any new and emerging legislation and be linked to the new Plan:MK that would replace the Council's current Local Plan and Core Strategy that the 6 March 2018 document was linked to.

Councillor Legg also reminded the Sub-Committee that 6 March 2018 Cabinet decision was not due to be implemented until 1 September 2018.

The Committee challenged and questioned the responsible Cabinet member and his witnesses about the process and the feasibility of the time frames and the suggested options proposed by CMK Town Council.

Councillor Bint proposed that.

1. The good faith of those present to reach a solution be acknowledged.
2. That the latest target completion date of 8 months for the new Planning Obligation Supplementary Planning Document being considered at the 4 September 2018 meeting of the Cabinet to address all the new and emerging planning legislation, be supported.
3. That an informal process be found with immediate effect to include CMK Town Council in particular, and other Town and Parish Councils, in the negotiations for S106 contributions.
4. That in the light of (2) above, following a commitment to bring the new Planning Obligation Supplementary Planning Document for adoption by Spring 2019, instead of a revised 18 March 2018 Planning Obligation Supplementary Planning Document, the matter be not referred back.

The Delegated Decision in respect of the Planning Obligations Supplementary Planning Document taken on 31 July 2018 would therefore take effect from 23 August 2018.

This was seconded by Councillor Marklew and agreed by acclamation.

RESOLVED -

1. The good faith of those present to reach a solution be acknowledged.
2. That the latest target completion date of 8 months for the new Planning Obligation Supplementary Planning Document being considered at the 4 September 2018 meeting of the Cabinet to address all the new and emerging planning legislation, be supported.
3. That an informal process be found with immediate effect to include CMK Town Council in particular, and other Town and Parish Councils, in the negotiations for S106 contributions
4. That in the light of (2) above, following a commitment to bring the new Planning Obligation Supplementary Planning Document for adoption by Spring 2019, instead of a revised 18 March 2018 Planning Obligation Supplementary Planning Document, the matter be not referred back.

The Delegated Decision in respect of the Planning Obligations Supplementary Planning Document taken on 31 July 2018 would therefore take effect from 23 August 2018.

**SPSSC03**

**CALL- IN OF THE 31 JULY 2018 DELEGATED DECISION THE ADOPTION OF THE DAUBENEY GATE, SHENLEY CHURCH END DEVELOPMENT BRIEF, BY COUNCILLORS BRUNNING AND DRANSFIELD**

The Committee noted that the decision made by Councillor Legg on 31 July 2018:

“That the proposed changes to the Daubeney Gate, Shenley Church End Development Brief arising from the public consultation be agreed and the Development Brief be approved”.

The Delegated Decision had been called-in by Ward Councillors Brunning and Dransfield for the following reasons:

- “1. All the existing secondary schools in the Western Flank have post-16 education provision. The Council has proposed the building of a new secondary school in the Whitehouse grid square with an 11-16 age range without post-16 provision. The new school is due to open in 2020 with 6 Forms of Entry [FoE], 180 pupils, and grow to 12 FoE, 360 pupils per year, over the following few years with a total of 1800 pupils. The Council has not published its plans for the

education of the new school's students when they finish mainstream school in 2025.

2. I [Councillor Dransfield] responded to the consultation, as did Shenley Church End Parish Council and the Denbigh Multi Academy Trust. The main response to the three comments was, "Not accepted" without even the courtesy of addressing the points raised. Until such time that the issue of post-16 education provision for those pupils finishing mainstream education at the new school is addressed, this site should remain available as a possible 6th Form establishment."

The Committee heard that at the mediation meeting held with Councillor Legg and Councillor Dransfield requesting that the decision be reviewed, no agreement had been reached.

The Committee received a written submission from Councillor Dransfield who was not able to attend the Sub Committee meeting.

The Committee also received evidence from the Council's Children and Families Strategic Lead Sufficiency and Access Officer that confirmed the Projections of Demand for Year 12 Places in Milton Keynes Secondary Schools to 2027.

The Committee received a response from Councillor Legg (the responsible Cabinet Member) who indicated that the Milton Keynes Allocations Site Plan was adopted by the Council on 18 July 2018 (Minute CL44 refers) and was a parent document to the Development Brief, and specified that the land use be allocated to Housing and not Education, therefore the Call In should not proceed.

The Sub Committee indicated that the Call In had raised questions about post 16 Education in Milton Keynes and in particular the West Flank Area. The Sub Committee heard that the Cabinet member for Children's Services was aware of the issue and it was anticipated that should there be a need for more post 16 education capacity in that area, there would be options to develop Whitehouse School in future years.

Councillor Bint proposed that:

1. That the importance of post 16 education provision in the Borough be noted.
2. That the Adoption of the Daubeney Gate, Shenley Church End Development Brief complied with the Adopted Milton Keynes Site Allocations Plan therefore the matter be not referred back.

The Delegated Decision in respect of The Delegated Decision in respect of the Planning Obligations Supplementary Planning Document taken on 31 July 2018 would therefore take effect from 23 August 2018.

This was seconded by Councillor Gilbert and was agreed unanimously.

RESOLVED -

1. That the importance of post 16 education provision in the Borough be noted.
2. That the Adoption of the Daubeney Gate, Shenley Church End Development Brief complied with the Adopted Milton Keynes Site Allocations Plan therefore the matter be not referred back.

The Delegated Decision in respect of The Delegated Decision in respect of the Planning Obligations Supplementary Planning Document taken on 31 July 2018 would therefore take effect from 23 August 2018.

THE CHAIR CLOSED THE MEETING AT 8.50 PM